

**NOTICE OF CLAIM -- Florida Statute 768.28 (6)**

TO: Derrick L. Henry, Mayor; James Chisholm, City Manager; Marie Hartman, City Attorney, Carl W. Lentz, IV, Pam Woods, Kelly White, Robert A. Gilliland, Patrick Henry, and Paula R. Reed, City Commissioners, 301 S. Ridgewood Ave., Daytona Beach, FL 32114.

**CLAIMANT:** John T. Hinton, Jr.

**PLACE OF BIRTH:** Daytona Beach, Florida

**DATE OF BIRTH:** May 13, 1953

**SOCIAL SECURITY NUMBER:** [REDACTED]

**DATE OF INCIDENT:** On or between December 13 and December 15, 2012

**PLACE OF INCIDENT:** 151 Westwood Drive, Daytona Beach, Volusia County, FL

**DESCRIPTION OF INCIDENT:** See attached

A prior adjudicated unpaid claim in excess of Two Hundred Dollars (\$200.00) does not exist.

IF ADDITIONAL INFORMATION IS NEEDED, PLEASE CONTACT THE UNDERSIGNED. PLEASE ACKNOWLEDGE RECEIPT.

I HEREBY CERTIFY that the original Notice of Claim has been furnished by hand delivery to the Mayor of the City of Daytona Beach, and true and correct copies have been furnished by hand delivery to the City Attorney, City Manager and City Commissioners of Daytona Beach, 301 S. Ridgewood Ave., Daytona Beach, FL 32114, this 4th day of January, 2013.

  
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CITY MANAGER'S OFFICE

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### **DESCRIPTION OF INCIDENT**

This is a claim for violation of civil rights, defamation, and the damages resulting therefrom.

The Claimant, John T. Hinton, Jr. owns a rental home at 151 Westward Dr. in Daytona Beach, which he has been leasing to qualified tenants. On the date in question, Mr. Hinton was renting the home to Melinda McCune. Ms. McCune, who has no prior criminal convictions, has been living in the home pursuant to a written lease agreement with Mr. Hinton, since November, 2011.

In the very early morning hours of December 13, 2012, the Daytona Beach Police Department's Crime Suppression Team and SWAT unit arrived at the above residence to execute a Search Warrant on the premises. In the process of "executing the Search Warrant," the officers apparently blasted the front door off its hinges, and tossed flash grenades through the bathroom window. It appears another plate glass window in the bedroom was also broken out. Although the occupants of the home had been secured, officers proceeded to kick in or damage virtually every door in the home, including the closet doors. All clothing and personal items were removed from closets and dressers and simply thrown onto the floor. After all of the destruction, the Daytona Beach Police Department was only able to locate a minute quantity of marijuana, paraphernalia and a couple of prescription pills belonging to an individual with a valid prescription.

Upon inspecting the damage to his property, Mr. Hinton attempted to contact the police department, to inquire as to the City's responsibilities and his rights as the innocent property owner. Mr. Hinton questioned the officers' actions at the scene and the necessity to cause such extensive damage. Mr. Hinton also expressed concern about officers leaving the home open, unsecured and unattended.

Instead of simply responding to Mr. Hinton's valid citizen concerns about the extent of the damage to his home, in news reports following the incident, Chief Chitwood proceeded to personally and very publicly attack Mr. Hinton. His public response on television and in the newspaper was, "We don't have a legal obligation to pay for your property, because if you were renting to decent people, not gang members, not people that are out there dealing in dope, we wouldn't have been on your doorstep." Chief Chitwood then went so far as to call Mr. Hinton "a slumlord," during an interview with the News-Journal. Then he went even farther by stating, "He is so busy making TV commercials and he should be looking into the backgrounds of the people he rents to."

Contrary to the position of the Chief, police do not have an unfettered right to destroy someone's home simply because they have obtained a Search Warrant. In this case, the Chief publicly represented that the judge approved "a no knock" Search Warrant, which allowed them to enter the home with force. Undersigned counsel has been unable to find any mention of Court approval for such a warrant in this case. Under the facts of this case, the police are responsible for the unnecessary damage to Mr. Hinton's home. Even in the case of a "no knock" warrant, the police are not free to cause whatever damage they desire.

The property damage in this case nonetheless pales in comparison to the damages suffered by my client as a result of the Chief's baseless attack upon Mr. Hinton's character. By attacking a reputable, respected and law-abiding business leader through the use of false statements and innuendos, the Chief has exposed himself and the City to damages for defamation. In this case, the statements made by the Chief were clearly outrageous and inexcusable. Since his arrival, the Chief has gained a reputation for his labeling of

undesirables as "scumbags." He has since used that moniker to describe virtually anyone arrested by his department. This has apparently played well with many of the local citizenry up to this point.

The City of Daytona Beach is well aware of the propensities of their chief law enforcement officer to personally attack upstanding members of the community and other law enforcement agencies by resorting to name-calling and public criticism, usually in an effort to manipulate public opinion as the circumstances require. This is done almost exclusively through statements he makes to the local media. The Chief has nonetheless continued to operate in this manner with impunity. He has publicly criticized members of our local Judiciary, the Sheriff of Volusia County, members of the County Council and surrounding law enforcement agencies, to mention just a few. By failing to set forth guidelines and parameters, the City has condoned this behavior and has allowed its Chief of Police to embarrass, humiliate and defame innocent citizens who may reasonably disagree with his actions or those of his department in a particular case.

In Mr. Hinton's case, the Chief has finally gone too far. A "slumlord" is defined as "a landlord who owns slum buildings, especially one who fails to maintain or improve the buildings and charges tenants exorbitant rents." Even the slightest bit of background information would have revealed that Mr. Hinton's property was well kept and maintained. He makes all the necessary repairs and improvements to his property whenever needed. In fact, the only time Mr. Hinton's property could be considered in disrepair was after the Daytona Beach Police Department left the home in shambles. What is even more disturbing in this case is that the Chief went so far as to imply that Mr. Hinton knowingly rents to drug dealers and gang members. His baseless statements appeared to implicate Mr. Hinton in a criminal matter in which he clearly had no knowledge or involvement. Such statements are not only false and irresponsible, but have had a negative impact on Mr. Hinton's business dealings. The effects of these misleading comments will lead to significant damage to Mr. Hinton's reputation and business, if this issue is not cleared up to Mr. Hinton's satisfaction immediately. The impact of these improper statements are already being felt since this case has been mentioned in a national appliance dealers trade publication.

It must be made perfectly clear that Mr. Hinton did absolutely nothing in this case which could be construed as illegal, improper or even inappropriate. Any resolution of this matter will necessarily require a retraction and a full and unequivocal public apology to Mr. Hinton by the Chief of Police and the City, specifically stating that the statements and characterizations concerning Mr. Hinton were inappropriate and untrue. It is in the city's best interests to clear this matter up without further delay. Failure to immediately act to correct these wrongs will cause irreparable harm to Mr. Hinton. Not only will the economic damages sustained by Mr. Hinton continue to increase, but the city's reputation could be harmed as well. Many innocent business owners have voiced concern over what could happen to them if a crime is committed on their property without their knowledge and consent. Will the Chief again imply "guilt by association," regardless of how tenuous that association may be?

A disc containing copies of 11 photographs was included with the original Notice of Claim delivered to Derrick L. Henry, Mayor.